

**REMARKS**

Applicant respectfully requests reconsideration and allowance of claims 1-20, which are pending in the above-identified application. Claims 1-8 and 10-20 stand rejected, and claim 9 stands objected to. By the foregoing amendment, Applicant has amended claims 1, 7, and 9. No new matter is added by the amendments. In view of the following discussion, Applicant submits that all pending claims are in condition for allowance.

In the July 13, 2007 Final Office Action on page 2, paragraph 5, the Examiner rejected claims 1-8 and 10-15 under 35 U.S.C. § 102 (b), as being anticipated by Jaeger et al. (WO 97/12687). Applicant respectfully traverses this rejection. The Examiner has taken the position that Jaeger et al. allegedly discloses all types of microstructures located on the surfaces. On the bottom of page 9, Jaeger et al. teaches specific types of microstructures, but not all types of microstructures. Jaeger et al. incorporates the contents of US Patent 5,472,143, which discloses microforming small-sized channels, inlet ports, and outlet ports, and filters. Jaeger et al. also states on the bottom of page 9 to page 10, “[t]he nozzle member consists, for example, of two plates of glass and/or silicon firmly joined together, of which at least one plate has one or more microstructured *channels*...At the nozzle outlet end is at least one circular or non-circular opening...” As such, Jaeger et al. discloses a microstructure opening and microstructure or nanostructure channels, outlet ports, inlet ports, and filters.

In contrast, the present invention involves a different kind of microstructure: elevations and depressions. As amended, claim 1 recites, “[a] nozzle for a delivery device for fluids comprising an inlet side and an outlet side wherein an outer surface of the outlet side includes at least one of *elevation and/or depression* microstructures and *elevation and/or depression* nanostructures.” As amended, independent claim 7 now contains the elevation and/or depression language as well. Thus, Applicant submits that the clarifying amendment to independent claims 1 and 7 distinguishes the claimed invention from the device in Jaeger et al. Because Jaeger et al. does not contain each and every limitation of claims 1 and 7, Jaeger et al. does not anticipate these claims. Claims 2-6, 8, and 10-15 depend from independent claims 1 and 7 and recite additional features. Thus, the subject

dependent claims are also not anticipated by Jaeger et al. Accordingly, Applicant submits that claims 1-8 and 10-15 are in condition for allowance, and Applicant respectfully requests this rejection be withdrawn.

Applicant respectfully acknowledges that at page 9, paragraph 27, the Examiner made of record the allowable subject matter of claim 9. Applicant has amended claim 9 as an independent claim including all of the limitations of the base claim 7 as amended. Accordingly, Applicant submits that claim 9 is in condition for allowance, and Applicant respectfully requests that the Examiner's objection be withdrawn.

In the Office Action on page 6, paragraph 21, the Examiner rejected claims 16-20 under 35 U.S.C. § 103(a) as being unpatentable over Jaeger et al. in view of Waldrum (U.S. Pat. No. 5,823,436). Applicant respectfully traverses this rejection. The patentability of claim 9 has been established above. Claims 16-20 depend from claim 9 as amended and contain all of the limitations thereof as well as additional patentable features. Accordingly, Applicant submits that the subject claims are patentable and respectfully requests that this rejection be withdrawn.

Applicant therefore respectfully requests reconsideration and allowance in view of the above remarks and amendments. The fee for the request for continued examination is enclosed herein. In the event there are any fees due and owing in connection with this matter, please charge same to our Deposit Account No. 11-0223.

Dated: August 31, 2007

Respectfully submitted,

By 

Matthew B. Dernier

Registration No.: 40,989

KAPLAN GILMAN GIBSON & DERNIER LLP

900 Route 9 North, Suite 504

Woodbridge, New Jersey 07095

(732) 634-7634

Attorneys for Applicant